

**CITY OF LEWISTON  
FINAL  
PLANNING BOARD MEETING MINUTES  
November 23, 2009– Page 1 of 9**

- I. ROLL CALL:** This meeting was held in the City Council Chambers on the First Floor of City Hall, was called to order at 5:35 p.m., and was chaired by Chairperson, Lucy Bisson. **Members in Attendance:** Lucy Bisson, Denis Fortier, Bruce Damon, Paul Robinson and Roger Philippon.

**Absent:** Trinh Burpee and Eric Potvin

**Associate Members Present:** Michael Marcotte **Absent:** none

**Staff Present:** Gildace Arsenault, Director of Planning and Code Enforcement; David Hediger, City Planner; and Heather Martel, Temporary Clerical Assistant of Planning & Code Enforcement, Lincoln Jeffers, Assistant to City Administrator

*Michael Marcotte was a full voting member for the entire meeting.*

- II. ADJUSTMENTS TO THE AGENDA:** Request to hear agenda item V (A) first.

- III. CORRESPONDENCE:** Memo from Jan Patterson dated November 20, 2009, David Hediger's memo dated November 6, 2009, Lincoln Jeffers' email dated November 19, 2009, Kevin Gagne's memo dated November 23, 2009 and letter dated November 20, 2009, Eric Potvin's email dated November 23, 2009.

Prior to commencing the public hearing, Lucy Bisson read excerpts of the Planning Board protocol with respect to the Board's decision making process.

- IV. PUBLIC HEARING:**

*Taken out of order, Agenda Item V(A): A request from City Development Corporation/Forrestal Development, LLC for a two year extension of approval for the Forrestal Development project.*

Michael Marcotte asked whether the funding would be public or private

George Dycio stated they were marketing to dozens of clients and that they are hopeful the money would be private.

**MOTION:** by **Denis Fortier** for a two year extension of approval for the Forrestal Development project.

Second by **Roger Philippon**

**VOTE:** 6-0 (Passed).

- A. To consider a request from Taylor Engineering Associates on behalf of Maine Source LLC for an 84 lot subdivision for single family homes at 222-228 Grove Street. The development will consist of approximately one mile of new public roads, extending Mark Street and exiting onto Grove Street.**

Norm Chamberlain, Taylor Engineering spoke to the maintenance costs of stormwater system, and through the subdivision association and sale of lots, potentially \$2,000 a year will be provided.

Staff concerns included maintaining a buffer for water quality along wetlands, draft deed with restrictions to inspect storm water areas, and funding through the Homeowners Association.

Norm Chamberlain explained the funding: \$100/lot to Homeowners Association; \$25 annually per lot. Maine Source will be part of association and all maintenance and inspections will be done by Maine Source until 51 lots are sold. \$2,000/year should be able to maintain.

Bruce Damon expressed concern regarding the over active aquifer.

Norm Chamberlain stated that most of development is outside the line of the aquifer.

David Hediger said that the ordinance allows single family residential use of aquifers.

Paul Robinson questioned \$100 Maine Source will pay per lot sold. Norm Chamberlain said this will occur with the sale of each lot in each phase as well as \$25 designated through the association from homeowners each year.

Lucy Bisson noted several typing errors in the declaration of covenants. Norm noted a corrected version will be provided with the warranty deed.

Lucy Bisson opened the meeting to the public.

Harry Milliken, 6 Judith Street, questioned what the smallest lot is. Norm Chamberlain stated 12,600 s.f. with frontage being 50.14 feet. Subdivision went from 102 lots to 84 because they wanted slightly larger lots.

Harry Milliken asked if the pond counts as recreation space required as part of the open space. Norm explained that 262,000 s.f. of land outside of the pond exceeds requirements for open space.

Harry Milliken questions who is responsible for maintaining the dam on the pond. The dam is not owned by Maine Source and was believed to be maintained by an abutting property owner.

Harry Milliken made reference to David Hediger's memo dated 11/6/09, items 28 & 34 and asked if this was addressed. David Hediger states there are lots with buffers in the rear; however, the building envelopes were not big enough. These lots have since been addressed by Norm. Regarding item #34 with respect to wetlands & building this has also been addressed. The pond is not considered open space. Norm added the wetlands and pond are being protected.

Harry Milliken has a map from 1980's. He stated the development is over aquifer. David Hediger stated it would not matter as single family residences are allowed per the ordinance.

Dan Robitaille, 230 Grove Street is concerned that there isn't any easy access to the dam, it is currently settling, after each storm there is a lot of water flowing over and that it is not good for the property values.

John Mercier a realtor from Auburn is in support of the development and adds that it is good affordable housing.

Kevin Laplante of 55 Mark Street in Lewiston wants to know if McMahon School will be able to accommodate the children that move into these homes as the school is full at this time and is concerned about the wetlands impact. Lucy Bisson said the question should be addressed to the school department. David Hediger said he has contacted the school department but does not have an answer at this time.

Norm Chamberlain referenced exhibit A included in warranty deed and having covenants included in deed to help flag concerns with respect to maintenance of the stormwater system.

Roger Philippon questioned who is responsible for the dam. David Hediger said that it is privately maintained. Bruce Damon questioned if the dam may wash out what kind of impact it would have. Norm said there would not be any impact other than a large mud area would remain.

Roger Phillipon questioned Janice Patterson's November 20<sup>th</sup> memo. David Hediger suggested that Jan Patterson's memo be handled as conditions of approval. Staff would make sure they would be met.

Paul Robinson asked whether an extension of 2 years will have to come back 60 days before expiration. David Hediger explained extensions will need to be requested.

Bruce Damon asked whether this development was under 1 year annual reporting for purposes of DEP stormwater system maintenance. David Hediger said it is not, falling outside the urbanized area. Bruce Damon questioned whether there should be a security bond provided. David Hediger said No, just urbanized area. With a performance guarantee the City can take enforcement action, place liens, etc. Bruce Damon suggested a bond would be a good mechanism to include in the homeowners association. Gil Arsenault said the City can not require a performance bond but we can make sure stormwater system is in place. In addition he suggested that maybe Mr. Turner should consider contributing more than \$25 a year through the association.

Bruce Damon questioned whether we could require annual inspections. Gil Arsenault said that we can on the catch basins, etc. but that the homeowners association should already doing these. David Hediger said that Chapter 500 already requires these inspections be conducted by the developer or association.

Gil said we can approve and make sure homeowners association is still maintaining the stormwater system.

Developer Bill Turner said he would increase the fee to \$50 per lot per year.

**MOTION:** by **Denis Fortier** that the application meets all of the necessary criteria contained in the Zoning and Land Use Code and to grant approval with the consideration of the 11/20/09 memos from Janice Patterson, David Hediger and Taylor Engineering.  
Second by **Roger Philippon**.  
Amendment to Motion—**Bruce Damon**—Yearly reporting of storm water inspection. Funded by modification to \$4200 year.

**VOTE:** 6-0 (Passed).

**B. To reconsider a request from Platz Associates on behalf of the City of Lewiston for the construction of a four story parking garage and surface parking lot at 16-44 Lincoln Street and 65 Main Street consisting of 621 total parking spaces with 6,610 s.f. of retail space within the proposed parking garage.**

Lucy Bisson summarized reconsideration process.

The City attorney, Martin Eisenstein indicated he was available to discuss the reconsideration. The motion must be made by Bruce Damon or Michael Marcotte as they voted no at the prior meeting.

Bruce Damon asked if the application is complete referencing Article 15, section 5, C2 not applicable.

Gill Arsenault stated that only individual buildings are restricted by historic demolition delay. Mill 1 & 2 are only subject to demo delay and do not need Certificate of Appropriateness for demolition. Only review demolition delay (90 days).

Bruce Damon said that in documents presented-Mill St.-is parallel to Mill 1 & 2, and just beyond Mill 5. However, on the plan, Railroad Alley is where retaining wall is. Bruce asked for this to be clarified.

David Hediger said that Railroad alley is actually a public easement that runs behind where Vincent Fruit used to park their vehicles. The City does not own the property but has an interest in it.

Martin Eisenstein (City Attorney) said that the application should be reviewed as set forth and that Railroad Alley is not a relative factor to the approval criteria.

Tom Peters explained history as to the choice of location of the potential parking garage.

Lucy Bisson asked for a motion to reconsider.

Bruce Damon said that this reconsideration is highly veiled and should be called an acquisition.

Martin Eisenstein (City Attorney) said that this is a reconsideration of application.

Michael Marcotte stated that he stands by his position at the last meeting.

Bruce Damon said there were two proposals—one approved, one denied.

Denis Fortier said he wouldn't be changing his mind

Roger Philippon said approving two proposals wouldn't happen if this were a private party and not the city.

Gil Arsenault said this was not true. The Board voted that the criteria were met for garage, but not for garage with retail. Staff would just like to know why garage and retail criteria have not been met.

David Hediger mentioned that the retail was only added to improve the appearance of the parking garage.

Lucy Bisson stated that the reason the parking garage with retail failed was because of a tie.

Tom Peters said that even if the garage with the retail passed that the reality is the retail would probably not be built because the bids will likely be too high.

Paul Robinson stated if the garage with retail is approved, the developer would decide whether the retail would go through or not.

Mr. Peters stated that is not the case.

Paul Robinson questioned whether it would go from the builder back to council

Mr. Peters said he would like two separate bids

Lincoln Jeffers said that the retail space would be the decision of the council.

Bruce Damon questioned whether the City will receive bids and then proposal

Paul Robinson said the City could put that in the request for proposal

Gil Arsenault stated it would go to the finance committee and City council

Bruce Damon said the comprehensive plan is dated and it is questionable as to whether it is in line with the plan for a parking garage.

Martin Eisenstein suggested that maybe there should be a move to reconsider with the basis that not in conformity with comprehensive plan.

Tom Peters said we must keep moving on a strategic plan if we have someone with contractual consideration we don't have a choice.

**MOTION:** by **Bruce Damon** to reconsider the denial for the construction of a four story parking garage, surface parking lot and retail space at 16-44 Lincoln Street and 65 Main Street consisting 621 parking spaces based on City Attorney's advice that this plan is not in conformity with the current comprehensive plan. Bruce would like a thorough discussion about issues that have been raised and would like to be included in decisions. Second by **Roger Philippon**.

Tom Peters thanked the Board for their motion.

**VOTE:** 5-1 (Passed—Michael Marcotte opposing)

Bruce Damon questioned if Roger Philippon had been presented with and reviewed all the same information as the rest of the board so that he could vote.

**MOTION:** by **Denis Fortier** that *Roger Philippon* be allowed to vote  
Second by **Paul Robinson**

**VOTE:** 5-0-1 (Roger Philippon abstaining)

Steve Meyers of Platz Associates clarified their roll. They are hired by the City to design the proposed garage. Developer is Bates Mill LLC. Parking agreement is between the City of Lewiston and Bates Mill LLC. Steve questioned David Hediger as to whether he should proceed by reiterating all the information that was at the first meeting.

David Hediger stated the decision was in the hands of the board.

Lucy Bisson stated the board was open for questions and would ask specific questions based on the information for which they were already aware.

Bruce Damon questioned whether the first phase for parking garage would extend an additional 40 feet with the added retail.

Steve Meyers clarified it would be an additional 20 feet toward Lincoln street with the retail.

Lucy Bisson asked if there would be any parking above the retail space.

Steve stated that the retail sits back into the garage on the first level and that there is parking above the back half of the retail.

Paul Robinson asked about parking in front of the retail and if parking had to be only on the street.

Steve said there would be parking on the street. There would also be parking and a loading/delivery area in the back.

Bruce Damon reiterates that the retail would be a single story building half covered by the garage.

Travis from Platz Associates states that there is a front entrance only for the main traffic.

Lucy Bisson questions whether she would have to walk all the way around to the retail entrance in front if she parked in the parking garage.

Travis said yes. The rear entrance would be a service entrance only and that this is common in this type of retail establishment.

Bruce Damon questioned whether the only entrance to the business' when coming from Auburn would be to go up to the mill then back to the controlled parking area.

Steve Meyers said there will be a couple of different entrances and 8 spaces on the west side of Lincoln Street.

Michael Marcotte expresses concern for the redesigning of Main St. since it was just redesigned.

Steve said there is a traffic movement plan for widening Main St. and a possible center left turn lane.

Michael Marcotte has an issue regarding the distance from mills 1 & 2 to parking garage.

Steve Meyers stated there are 777 spaces.

Michael Marcotte said that the parking garage is at least 500 feet from Mill #2.

Marty Eisenstein explained that parking cannot be used as a basis for denial.

Lucy Bisson asked if there were any remaining questions or concerns.

Marty Eisenstein said that it is a legitimate question; access to garage is part of acceptance.

Dave Hediger stated along these lines—the revised plans have addressed the issues. Traffic movement on Main Street needs to be complete as a condition of approval.

Bruce Damon expressed concern about Railroad Alley because of the City's interest in potentially bringing passenger rail service back to Lewiston.

David Hediger explained that the City does not own Railroad Alley and that Railroad Alley has nothing to do with the railroad it is actually just a piece of land that is a public easement and that one of the conditions for approval for this project is that Mill street be accepted as a City street by the City council.

Marty Eisenstein mentioned that the role of the planning board is to review the criteria set forth and that the future concerns of the Railroad are not a part of the planning process.

Lucy Bisson questioned whether Railroad Alley would have to be deactivated first.

David Hediger stated that yes and the other issue is the financial capacity. The garage is one source of funding and the off site improvements are another. Staff has addressed this as condition of approval.

Lincoln Jeffers stated that the Phase I parking would be bid out and that if the bids come in excess of \$7 million that the City would then have to go to the voters.

David Hediger stated that Eric Potvin's email should be considered.

Paul Robinson asked Platz association if the design could be reconsidered to allow entrance to the shops in addition to the front entrance.

Travis states that the building was designed with the front entrance only to bring foot traffic to the front sidewalk.

Lincoln—Hydro facility of #5 will remain

Roger Philippon, noting the November 9<sup>th</sup> meeting and the Board's 4-2 vote for the garage minus retail asked if parking garage meets the criteria?

Denis Fortier states that it does meet criteria

Lucy Bisson said that it does meet criteria and that with the Mill Street and Railroad alley conditions it should pass.

Paul Robinson said that it does meet criteria

Lucy Bisson asked if there were questions/concerns and requested a motion.

**MOTION:** by **Denis Fortier** that the application meets all of the necessary criteria under Article XIII, Section 4 of the Zoning and Land Use Code and to grant approval to the City of Lewiston for the construction of a four story parking garage and surface parking lot with 6, 610 s.f. of retail space at 16-44 Lincoln Street and 65 Main Street consisting of 621 parking spaces with the following conditions: 1) All traffic related signs and improvements associated with the traffic movement permit must be installed and completed upon Phase I being completed. 2) The Mill Street extension will need to be accepted as a city street by the City Council prior to a certificate of occupancy being issued for use of Phase I of the garage. 3) The applicant must address all of the concerns noted in City Project Engineer Jan Patterson's memo to David Hediger dated November 5, 2009. Second by **Paul Robinson**.

**VOTE:** 4-2 (Passed- Michael Marcotte and Bruce Damon opposed).

**MOTION:** by **Denis Fortier** to reconsider November 9 vote that the application meets all of the necessary criteria contained in the Zoning and Land Use Code and to grant approval to the City of Lewiston for the construction of a four story parking garage and surface parking at 16-44 Lincoln Street and 65 Main Street consisting of 641 total parking space, subject to any concerns raised by the Planning Board or staff. Second by **Paul Robinson**

**VOTE:** 5-1(Passed- Michael Marcotte opposed)

**MOTION:** by **Denis Fortier** that the application meets all of the necessary criteria contained in the Zoning and Land Use Code and to grant approval to the City of Lewiston for the construction of a four story parking garage and surface parking at 16-44 Lincoln Street and 65 Main Street consisting of 641 total parking spaces with the following conditions: 1) All traffic related signs and improvements associated with the traffic movement permit must be installed and completed upon Phase I being completed. 2) The Mill Street extension will need to be accepted as a city street by the City Council prior to a certificate of occupancy being issued for use of Phase I of the garage. 3) The applicant must address all of the concerns noted in City Project Engineer Jan Patterson's memo to David Hediger dated November 5, 2009. Second by **Paul Robinson**

**VOTE:** 5-1(Passed- Michael Marcotte opposing)

**V. OTHER BUSINESS:**

**VI. MINUTES:** *No minutes available for this meeting.*

**VII. ADJOURNMENT:** The following motion was made to adjourn.

**MOTION:** by **Denis** that the Planning Board adjourns this meeting at 8:40 p.m. Second by **Roger Philippon.**

**VOTED:** 6-0 (Passed).

Respectfully submitted,

Denis Fortier, Planning Board Secretary

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